1958.

SUPREME COURT OF THE UNITED STATES.

No. 185.

EDWARD M. CHAFFEE, TRUSTEE OF HORACE H. DAY, PL'FF IN ER.,

vs.

NATHANIEL HAYWARD.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF RHODE ISLAND.

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At a circuit court of the United States, holden at Newport, within and for the Rhode Island district, on the sixteenth day of June, A. D. one thousand eight hundred and fifty-six:

Present, the Hon. Benj. R. Curtis, Asso. Justice Sup. Court U. S.; Hon. John Pitman, U. S. dist. judge for R. I. dist.; George W. Browne, esq., U. S. dist. attorney, for R. I. dist.; Francis C. Gardiner, esq., U. S. marshal; Henry Pitman, clerk of the circuit court—

In the record of the proceedings of said court among others are the following, to wit:

EDWIN M. CHAFFEE,
trustee,
vs.
NATHANIEL HAYWARD.

Be it remembered that at the November term, A. D. 1855, of said court, the following writ and declaration were filed:

Writ.

RHODE ISLAND DISTRICT, *ss:*

The President of the United States of America, to the marshal of [L. S.] said district, or to his deputy, greeting:

We command you to arrest the body of Nathaniel Hayward, of Colchester, in the State of Connecticut, a citizen of the State of Connecticut, commorant of the city and county of Providence, and State of Rhode Island, if he may be found in your district, and for want of his body to attach his goods and chattles or real estate to the value of two hundred thousand dollars, and him or those in safe custody, keep to answer the complaint of Edwin M. Chaffee, of the city and county of Providence, and State of Rhode Island, &c.; a citizen of said State of Rhode Island, trustee to Horace H. Day, of the city, county, and State of New York, at the next circuit court to be holden at Providence within and for the Rhode Island district, on the fifteenth day of November next ensuing the date hereof, in an action of the case for that certain letters patents, duly issued in the name of the United States of America, according to the acts of Congress in such case made and provided, dated the thirty-first day of August, A. D. 1836, were granted to the said Edwin M. Chaffee, a citizen of the United States, for a new and useful improvement in the application of undissolved caoutchouc to cloth, leather, and other articles, in coloring the same without the aid of solvents, and in the machinery used in the process, the said

Chaffee being the first and original inventor thereof, which letters patent were duly extended by the Commissioner of Patents, under the act of Congress, on the 30th day of August, 1850, for a further term of seven years from the 31st day of August, 1850; and the said defendant, not ignorant of the premises, but contriving to injure the plaintiff in that behalf, and wrongfully to deprive him of the benefit of said patent right, and since said 31st day of August, 1850, and until the first day of July, 1853, to wit, at Colchester aforesaid, to wit, at said Providence in said district of Rhode Island, made and used, and vended to others to be used, said invention and improvement so made, patented, and secured as aforesaid, and has infringed said patent right, contrary to the statute in such case made and provided, and other wrongs to the plaintiff has done and committed, as by declaration to be filed in court will be fully set forth, to the damage of the plaintiff five hundred thousand dollars.

Hereof fail not, and make true return of this writ, with your doings thereon.

Witness the Hon. Roger B. Taney, our Chief Justice, at said Providence, this twenty-second day of October, Anno Domini 1855.

HENRY PITMAN,
Clerk.

Marshal's return.

UNITED STATES OF AMERICA,

Rhode Island District, ss:

OCTOBER 22*d*, 1855.

For want of the body of the within-named defendant to be by me found within my district, I have, at fifty-nine minutes before one o'clock in the morning, attached all the right, title, and interest of the defendant in and to the following described real estate, viz: a certain lot of land with all the buildings and improvements thereon, situate in the city of Providence, on the corner of Eddy and Clifford streets, and known as Hartshorne's Rubber Factory, bounded easterly on Eddy street, southerly on land now or late of Benjamin Dyer and Thomas J. Stead, and northerly on Clifford street.

I have made further service of this writ by attaching this day, at twenty minutes before ten o'clock a. m., all of the personal estate of the within-named defendant in the above-described Hartshorne & Company's India Rubber Factory, situate as above described, as per schedule hereto annexed, marked A, and made a part of my return; and also all of the personal estate of the within-named defendant in the store or warehouse No. 7, Dorrance street, situate on Dorrance street wharf, in the southwesterly part of the city of Providence, as per schedule marked A as above, and made part of my return; and have left true and attested copies of this writ, with

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my doings thereon, with the city clerk of the city of Providence, and with John Sweet and William E. Himes, they being in possession of the premises, the defendant having no known place of abode within my district.

FRANCIS C. GARDINER,
U. S. Marshal.

Fees, 3 services	4 00
3 copies, 18 fol	4 40
Cash paid taking inventory	
" " keepers	
Custody fees 15 days	37 50
Commission of $500, 1 p. c	5 00
" 19,500, ½ p. c	997 50
	1,052 40

A.

Inventory of shoes on hand, at store house and factory, October 22d, 1855.

27244	pairs men's overshoes and sandals.
19282	women's " " and buskins.
2026	misses' " "
468	boys' boots.
521	misses' "
1578	men's short boots.
1568	" caraby do.
584	" wading do.
1246	boys' overshoes.
371	women's long boots.
54878	

Inventory of stock in mill, cloth, rubber, &c., on hand, October 22d, 1855.

97 p's	Boston bro. drills, 3880³ y'ds.
52	Mariposa sheeting, 2006³.
65	Pacific " 2680.
67	drills, col'd, bl'k, and slate, 3634.
32	Jeans, tan col'd, 932.
59	cotton flannel, bleach'd, 1890.
36	Osnaburgs, 1440³.
42	green elastic wool cloth, 865.
14	felt cloth, 293³.
1	woolen, 48³.

5½ Worcester stockinette, 687.
30 slate col'd, coarse do., 677.
33 " " fine do., 697.
3 bales Eng. stockinette.
10 p's " " samples.
31 " tan col'd, 648 lbs.
3 black stockinette, 55.
10 " " coarse, 237.
Lot of fine stockinette, 114½.
1 p's cotton velvet, 18½ yd's.
10 brown sheeting, 389.
5½ cases fine wool stockinette, 1450.
1 bale 200 bags.
3 p's slate col'd stockinette, 61 lbs.
7 black " 154.
4 tan col'd " 80.
16 Pacific sheeting, 656 yd's.
40 yd's Worcester stockinette.
130 cloth insoling.
57 green boot lining.
6 blue.
708 p'rs men's wool boot linings.
185 " cotton " "
249 women's and misses' cotton "
4212 men's boot heels.
12079lb. Para rubber, at store-house.
7953 " " ground.
7985 " " mix'd with compound.
194 " " run on cloth.
378 " " coarse.
6385 Cathagena green rubber.
45506 East India rubber, in store-house.
629 " " " ground.
4458 " " " mix'd with compound.
505 old shoe rubber.
324 very coarse do.
7475 ground rags.
1460 rags unground.
22237 compound (plaster and litharge) mix'd.
38 bbls. plaster.
7½ casks lampblack, 2523³.
1 bbl. coal tar.
5 bbls. hard tar.
48½ bbls. sulphur.
3½ bbls. camphene, 146 galls.
½ " rosin.
592 gall's linseed oil.
40 " sperm.

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10 " machinery.
120 paris white, 97 shellac.
50 gall's varnish.
358 tons coal.
234 packing boxes.
45 reams packing paper.
Oak timber for blocks, 432 feet.
Pine plank, 713 "
Maple " 230 "
225 nails.
1 gro. screws.
400 lbs. cast steel.
93 low noor iron.
1595 glendore do.
384 baynal do.
2813 old cast do.
125 shafting do.
13 kegs litharge, 7051 lbs.
70 lbs. twine.
1 steam engine and shafting.
1 mill for cutting gum.
10 rubber grinders.
1 rag do.
1 felling mill.
2 soleing machines.
1 spreading mill.
1 cullender for spreading cloth.
1 machine for making sheets.
1 small machine.
1 drying do.
24 canns, not all perfect.
139 reels.
214 p'rs men's boot trees, not all perfect.
40 p'rs boys' " " " "
48 " women's " " " "
4000 " women's lasts " "
3000 " men's do. " "

Declaration.

CIRCUIT COURT OF THE UNITED STATES,
Rhode Island District, ss:

November term, A. D. 1855.

Edwin M. Chaffee, of the city and county of Providence, and State of Rhode Island, &c., a citizen of said State of Rhode Island, trustee to Horace H. Day, of the city and county and State of

New York, complains of Nathaniel Hayward, of Colchester, in the State of Connecticut, commorant of the city and county of Providence, and State of Rhode Island aforesaid, duly attached by the marshal in an action of the case.

For that the said Edwin M. Chaffee, a citizen of the United States, was the first and original inventor and discoverer of a new and useful improvement in the application of undissolved caoutchouc to cloths, leather, and other articles, in coloring the same without the aid of a solvent, and in the machinery used in the process, as set forth in the letters patent hereinafter mentioned and described, the same being a new and useful improvement, and not known or used before in said invention and discovery, and not at the time of his application therefor, as hereinafter mentioned in public use, or on sale, with his consent or allowance; and the said Chaffee, being so as aforesaid the original and first inventor thereof, made application in due form of law to the Commissioner of Patents for the United States, for a patent for said improvement, and paid thereon the patent fee of thirty dollars, and presented a model, specification, and drawings, describing his aforesaid invention and improvements, and such proceedings were had thereon that letters patent were granted unto the said Chaffee, under the seal of the Patent Office of the United States, signed by Secretary of State, and countersigned by the Commissioner of Patents of the United States aforesaid, dated the thirty-first day of August, A. D. 1836, whereby the exclusive right and liberty to make, use, and vend to others to be used within the United States aforesaid the said improvements and inventions were secured to him, the said Chaffee, his heirs, administrators, and assigns, for the term of fourteen years next after the date of said letters patent, as will appear by said letters patent, ready to be produced in court, and which are of the following import, and to the following effect, viz:

The United States of America, to all whom these letters patent shall come:

Whereas Edwin M. Chaffee has alleged that he has invented a new and useful "improvement in the application of undissolved caoutchouc to cloths, leather, and other articles, in coloring the same without the aid of a solvent, and in the machinery used in the process," which he states has not been known or used before his application, has made oath that he is a citizen of the United States; that he does verily believe that he is the original and first inventor or discoverer of the said improvement, and that the same hath not, to the best of his knowledge and belief, been previously known or used; has paid into the treasury of the United States the sum of thirty dollars, and presented a petition to the Commissioner of Patents, signifying a desire of obtaining an exclusive property in the said improvement, and praying that a patent may be granted for that purpose.

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These are therefore to grant, according to law, to the said Edwin M. Chaffee, his heirs, administrators, or assigns, for the term of fourteen years from the thirty-first day of August, one thousand eight hundred and thirty-six, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said improvement, a description whereof is given in the words of the said Edwin M. Chaffee, in the schedule hereunto annexed, and is made a part of these presents.

In testimony whereof, I have caused these letters to be made patent, and the seal of the Patent Office has been hereunto affixed. [L. S.]

Given under my hand at the city of Washington, this thirty-first day of August, in the year of our Lord one thousand eight hundred and thirty-six, and of the independence of the United States of America the sixty-first.

JOHN FORSYTH,
Secretary of State.

Countersigned and sealed with the seal of the Patent Office.

HENRY L. ELLSWORTH,
Commissioner of Patents.

The schedule referred to in these letters patent and making part of the same.

To all whom these presents shall come,

I, Edwin M. Chaffee, of Roxbury, in the county of Norfolk, and commonwealth of Massachusetts, send greeting: Be it known, that I, the said Edwin M. Chaffee, have invented, made, and applied to use a new and useful improvement in the preparing, coloring, and applying india rubber to cloth of all kinds, leather, and other articles without the use of a solvent, which I call "Chaffee's improvement in rubber," specified in the words and figures following and exhibited in the drawings annexed. The india rubber undergoes an operation preparatory to its being applied to cloth and other articles, and the following is a description of that part of the machinery and apparatus employed for the purpose. A hollow cylinder or roller six feet long and twenty-seven inches in diameter, heated by steam or otherwise, to about two hundred degrees of Fahrenheit, is surmounted by another cylinder of like length, and heated in like manner, and eighteen inches in diameter. The large and small cylinders come in contact with each other on one side at about ten inches distant from the top of the large one. The large cylinder revolves much faster than the small one, so that there is a compound rolling and slipping action between the cylinders. Five bars are placed on the top of the large cylinder side by side each other, leaving a space of about three-fourths of an inch between them. The bars are one and a half inch thick, twelve inches wide, and about six feet long. The edges which lie in contact with the cylinder are

convex or circular, and so constructed that when one corner of the edge touches it, the other recedes from it, thus leaving a wedge-like space for the rubber to enter beneath the bars. What I mean by the corner of the edge, is the angles formed by the two sides of the bars and their circular edges, the one being an acute and the other an obtuse angle, which are more or less acute or obtuse according to their situation on the cylinder; the said bars being substitutes for so many cylinders, but one better adapted to sifting the coloring between them. They are held in contact with the cylinder, or nearly so, by weights or screws arranged for the purpose. If the rubber is to be colored, the coloring matter in fine powder should be sifted, or otherwise put into the spaces between the bars, where it will be incorporated with the rubber as it passes between the bars and the cylinders. A revolving apron is attached to the machine which carries the rubber between the two cylinders, or a plank may be substituted, if placed nearly in contact with the under side of the small cylinder, and the rubber put on in contact with the cylinders. The operation of the foregoing apparatus is as follows: The rubber is first cut into pieces about two inches square, and from one-eighth to one-fourth of an inch thick; it is then spread upon the apron that conveys it to the cylinder, where the compound rolling and slipping action of the heated cylinders softens and tears the rubber into fine shreds or thin sheets, which at the same time mixes with the coloring, which is sifted into the spaces between the bars: thus it passes all the bars successively, and undergoes this operation several times before it goes from the preparing and coloring part of the machine to the coating or covering part of the machine. The coating or covering part of the machine or apparatus for applying the prepared rubber to the cloth and other articles, consists of four hollow cylinders six feet long, heated by steam or otherwise, to about five hundred degrees of Fahrenheit, placed one above another.

For conveniently describing their operation, I number them one, two, three, and four, beginning the bottom. No. 1 is eighteen inches in diameter, Nos. 2 and 3 are each one foot in diameter, and No. 4 is eighteen inches in diameter. No. 3 moves much slower than the others, thus creating a compound rolling and slipping action between the surfaces of No. 2 and No. 3, and also between No. 3 and No. 4. Sometimes the three first cylinders only are used, in which case the gearing for driving the fourth cylinder is disengaged, and the cloth or other article to be coated is made to pass into the covering machine between the 2d and 3d cylinders; thence it passes half round the 2d and 1st cylinder, the rubber side coming in contact with the first and passing nearly round it; whence it is taken off and rolled up. The prepared rubber is conveyed by hand or otherwise from the preparing part of the machine whilst warm, and put into the hopper, which is placed between the 2d and 3d cylinder to receive it. The hopper is about two inches narrower than the cloth or other article intended to be coated. The cloth

enters between the bottom and the 2d cylinder, whilst the rubber enters between the bottom and the third cylinder, where the coating of the cloth is effected. There is advantage in passing the rubber between the 3d and 4th cylinder of the coating part of the machine before it comes in contact with the cloth, which warms and softens it so that it will adhere better to the cloth, to which also the rubber is presented more uniformly than when promiscuously put into the hopper. I sometimes put the prepared rubber directly upon the cloth or other articles to be covered, between the 2d and 3d cylinders, and then disengage the gearing of the 3d cylinder, which will not then revolve; the bottom of the hopper in this case does not enter so far between the cylinders; the sides of the hopper must in all cases enter as far as possible without being pinched by the cylinders to which they must be well fitted. Another mode of using this machine, is as follows: The rubber alone enters between the 2d and 3d cylinders, where it is formed into a sheet which passes half round the 2d; the cloth entering at the same time between the 2d and 1st, where the sheet of rubber is transferred from the cylinder to the cloth, then passing nearly round the first cylinder, where it is taken off and rolled up as before. In coloring, I sometimes make the rubber into sheets, apply the coloring, and roll the same into a mass, and then pass it through the cylinders, repeating until sufficiently colored. Again I mix the coloring with small pieces of rubber and let them both go between the cylinders, or cylinder and and bars together, mix more, and repeat until sufficiently colored, when it goes between the bar and cylinder, or between two cylinders, one going faster than the other; the rubber comes through in fine particles so long as the coloring is added.

The machine is an entire one, although in the drawings herewith for the purpose of exhibiting more distinctly the several parts and operations, it is divided into sections, Nos. 1 and 2, and Nos. 3 and 4. Figure 1 is the coating part of the machine, and a perspective view of it exhibited in the drawing annexed. AAAAAA is a cast iron frame or housing for the rollers or cylinders. B is a brace connecting the two parts of the frame together. CC are two timbers upon which the frame stands. 2, 3, 4, are the cylinders. No. 1 cylinder is behind the frame of bar D. DDDDD are 5 bars called cheeks, through which the cloth passes before it enters the rolls. E is a roll upon which the cloth is wound before being coated. F is a check weight attached to a cord passing over roll E. GG are screws regulating the pressure of the rolls, 1, 2, 3, and 4. H is a cogwheel that drives cylinder No. 1. I is a cogwheel attached to the cylinder No. 4, and is driven by the wheel H. K is a cogwheel attached to cylinder No. 3. L is a cogwheel upon the roll No. 1. M is a pinion matching with K and L, and serves to give the proper direction to the wheel K, L being the driving wheel. N is a pully attached to the roll or shaft O, seen in the sectional view, the shaft having a pinion upon its other end which drives the

cogwheel H. At R is seen the cloth passing between the cylinders two and three. At S is seen a sheet of india rubber which comes in contact with the cloth whilst passing between the cylinders 2 and 3. P in the sectional view is a roller driven by the short belt from the shaft O. Q is a small roll upon which the cloth is wound when it leaves the cylinder No. 1. It is made to revolve by resting upon the rolls O and T, the surface of O and P revolve a little faster than the cylinder No. 1. At T, the cloth is seen leaving No. 1 cylinder. Between the cogwheel H and the frame A is a cogwheel upon the cylinder No. 1, and also one upon the cylinder No. 2, the wheels being the same size of the cylinders to which they respectively belong. That upon No. 1 drives the one upon No. 2, and consequently the cylinder No. 2. Fig. 2 is a sectional view, the letters on which refer to the same parts as those on No. 1. U is a hopper not seen in the perspective, into which the prepared rubber is put by hand or otherwise while hot as it comes from the preparing apparatus. When three rolls only are used, the hopper is put upon the opposite side of the cylinders between Nos. 2 and 3. Fig. 3 is a persective view of the preparing part of the machine. AAAAAA is a frame of cast iron. BBBB are timbers upon which the frame rests. C is a large cylinder 6 feet long and 27 inches diameter. D is a cylinder 6 feet long and 18 inches diameter. E is a shaft 6 inches diameter. M is a pinion of the shaft E which drives the cogwheel K, and consequently the cylinder C. K is a cogwheel upon the cylinder C. L is a pully upon the shaft E, which is the first power. N is a cog upon the cylinder C, which drives the cogwheel O, upon the cylinder D. GG are screws regulating the pressure of the cylinders. FF are 5 bars of iron seen more distinctly in the sectional view, they are one foot wide, $1\frac{3}{4}$ inches thick, and about 7 feet long. HH are two blocks of iron having holes in them corresponding to the end of the bars F, into which the bars are put and fastened by keys. II are screws regulating the pressure of the bars upon the cylinder C. S is an apron or endless belt which carries the rubber to be prep red between the two cylinders C and D; the same is more distinctly seen in the sectional view. P Q are rolls round which the apron revolves (the apparatus for propelling the rolls P Q is not represented.) At R in the sectional view is seen the prepared rubber as it leaves the last bar and shrinks up into a mass. Fig. 4 is a sectional view, the letters of which refer to the same parts as those in Fig. 3.

What I claim as new and my invention, is the preparation and application of India rubber to all kinds of cloths, leathers, and other like substances, without the use of a solvent, in the manner aforesaid.

I also claim the mixing of coloring with India rubber, without bringing it into a state of solution in manner above described.

And I further claim the use of the heated cylinders, with the

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rolling and slipping slipping action thereof, as applicable to India rubber in the manner aforesaid, thereby preserving the strength of the rubber, and at the same time applying it to and covering cloths, leathers, and other like substances, with greater facility and at less expense than by any other process heretofore known or used.

EDWIN M. CHAFFEE.

Witness:
HORATIO BASS,
D. A. SIMMONS.

PATENT OFFICE.

Received 8th Sept. 1837, and recorded anew in this office, in conformity to the act of Congress passed 3d March, 1837.

HENRY L. ELLSWORTH, [L. S.]
Commissioner of Patents.

And the plaintiff further saith, that before the expiration of the original term for which said letters patent were granted, to wit, on the 30th day of August, A. D. 1830, upon the petition of said Chaffee made in due form of law, according to the acts of Congress in such case made and provided, the Commissioner of Patents granted to said Chaffee an extension of said letters patent for the further term of seven years, from the 31st day of August, A. D. 1851, as will appear by said extension of said letters patent, ready to be produced in court, and which is of the following import, and to the following effect, viz:

Whereas, upon the petition of Edwin M. Chaffee for an extension of the within patent, granted to him on the thirty-first day of August, eighteen hundred and thirty-six, the undersigned, Commissioner of Patents, in accordance with the 18th section of the act of Congress, approved the 4th of July, 1836, entitled "An act to promote the progress of the useful arts, and to repeal all acts heretofore made for that purpose," and the act approved the 27th of May, 1848, entitled "An act to provide additional examiners in the Patent Office, and for other purposes," did, on the thirtieth day of August, eighteen hundred and fifty, certify that said patent ought to be extended:

Now, therefore, I, Thomas Ewbank, Commissioner of Patents, by virtue of the power vested in me by said acts of Congress, do renew and extend said patent, and certify that the same is hereby extended for the term of seven years from and after the expiration of the first term, viz: the thirty-first day of August, eighteen hundred and fifty, which certificate on the petition of the applicant, together with this certificate, having been duly entered of record in the Patent Office, the said patent has now the same effect as though the same had been originally granted for the term of twenty-one years.

In testimony whereof, I have caused the seal of the Patent Office to be hereunto affixed, this thirtieth day of August, [L. S.] one thousand eight hundred and fifty, and of the independence the seventy-fifth.

THOMAS EWBANK,
Commissioner of Patents.

Whereby the inclusive right and privilege to make, use, and vend to others to be used, the said invention and improvement were secured to the said Chaffee, his heirs, administrators, and assigns, for the term of seven years next after the expiration of the original term for which said letters patent were granted.

And the pl'ff further saith that before he, the said Edward M. Chaffee, obtained the said letters patent, he delivered to the Commissioner of Patents a written description of his said invention and improvement, and of the manner and process of making, constructing, and using the same in such full, clear, and exact terms, as to enable any person skilled in the arts to which it appertains, or with which it is more nearly connected, to make, construct, and use the same; and he did in and by such description, fully explain the principle and the several modes in which he contemplated the application of that principle or character by which the said improvement may be distinguished from other inventions, and did also particularly specify and point out the parts, improvements, and combination, which he claimed as his own invention and discovery, and did also accompany the whole with drawings and written references, showing and representing his said invention, which said description and drawings were duly signed by the said Edwin M. Chaffee, and attested by two witnesses, and duly filed in the said Patent office; and did also forward and deliver to the said Commissioner of Patents, a model of his said invention, and did in all respects comply with the requirements of the statutes entitling him to receive said letters patent.

And the plaintiff further avers, that said improvement was not known or used by others before the invention or discovery thereof by the said Edwin M. Chaffee, that the same then was a new and useful invention, and was not at the time of the application of the said Edwin M. Chaffee for the letters patent aforesaid, in public use or on sale with his consent or allowance as the inventor or discoverer of the same.

And the plaintiff further saith that the defendant, well knowing the premises, but contriving and intending to injure the said pl'ff in that behalf, and wrongfully to deprive him of the benefit of said patent right so secured to the said pl'ff as aforesaid, heretofore, to wit, at Colchester, in the State of Connecticut, to wit, at said Providence within the said district of Rhode Island, on 31st day of August, 1850, and divers days since that time, and until the 1st day of July, 1853, has used and continued to use said improvement,

and has by the use of said improvement, prepared and applied large quantities of India-rubber, to wit, twelve hundred tons, to all kinds of cloth, leathers, and other like substances, without the use of a solvent, according to the plan and directions contained in said letters patent, and the process therein described; and also has prepared large quantities of India-rubber, to wit, twelve hundred tons, by mixing coloring with the same without bringing it into a state of solution in manner described in said letters patent; and also has prepared large quantities of India-rubber, to wit, twelve hundred tons, and wrought the same into articles of merchandise according to the plan and process described in said letters patent, and the same has sold, whereby the said pl'ff has been greatly injured and deprived of great profits and advantages which he might and otherwise would have derived from said invention and letters patent so secured to him as aforesaid; and has sustained actual damage to a large amount, to wit, to the amount of two hundred thousand dollars, and by force of the statute, an action hath accrued to the pl'ff to recover of the defendant said actual damages, and such additional amount, not exceeding in the whole three times the amount of such actual damage as the court may see fit to order and adjudge.

Yet the defendant, though after requested, hath refused, and still doth refuse to pay such sum or any part thereof to the pl'ff's damage two hundred thousand dollars, as laid in his writ, dated the 22d day of October, A. D. 1855. Wherefore he sues by his attorney.

T. A. JENCKES.

Whereupon the deft. enters the following

Plea.

And the said defendant, Nathaniel Hayward, in his own proper person, comes and says, that this court ought not to have or take further cognizance of the action aforesaid as against this defendant, because he says, that he is, and was at the time of the pretended service of the writ in said cause, an inhabitant of the district of Connecticut, and was not an inhabitant of the district of Rhode Island, and he was not at the time of the pretended service of the writ in said cause within said district of Rhode Island, and that the said supposed causes of action, and each and every of them, if any such have accrued to the pl'ff, as against this defendant accrued to said pl'ff, as against this defendant out of the jurisdiction of this court, that is to say in the district of Connecticut, or in such district of the United States as this defendant might be found within at the time of serving a writ therefor, and not in the district of Rhode Island, within the jurisdiction of this court. And this the defendant is ready to verify.

Wherefore he prays judgment, whether this court can or will take cognizance of the action aforesaid as against him.

NATHANIEL HAYWARD.

The said Nathaniel Hayward maketh oath and saith, that the plea herewith annexed is true in substance and fact.

Before me,

HENRY PITMAN,
Clerk Circuit Court U. S., for Rhode Island District.

To which plea the plaintiff, by his attorney, filed the following

Demurrer.

UNITED STATES CIRCUIT COURT,
Rhode Island District, ss:

November term, A. D. 1855.

And the said plaintiff, as to the said plea of the said defendant by him above pleaded, saith that the same, and the matters therein contained, in manner and form as the same are above pleaded and set forth, are not sufficient in law to bar or preclude him, the said pl'ff, from hearing or maintaining his aforesaid action thereof against the said defendant in this court and in this district, and that the said plaintiff is not bound by law to answer the same, and this the said pl'ff is ready to verify. Wherefore, by means of the insufficiency of the said plea in this behalf, the said pl'ff prays judgment and his damages by him sustained, on occasion of the committing of the said grievances by the said defendants, to be adjudged to him and for his costs.

By his attorney,

T. A. JENCKES.

This cause came on to be heard at said November term, upon the said demurrer, and was argued by counsel, and held by the court for advisement; and now, at the present June term, A. D. 1856, the court deliver an opinion, overruling the demurrer and sustaining the said plea.

Whereupon the court order, and the said action is hereby dismissed for the want of jurisdiction.

To which decision of the court the plaintiff files the following motion:

Motion for writ of error.

CIRCUIT COURT OF THE UNITED STATES,
Rhode Island District, ss:

June term, 1856.

The plaintiff excepts to the decision of the court in said case,

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overruling the demurrer to the plea of the defendant in said cause, and sustaining said plea, because they aver that said decision was erroneous, and they pray that they may be allowed a writ of error thereon to the Supreme Court of the United States.

By his attorney,

T. A. JENCKES.

The pl'ff files his bond according to the statutes.
September 20th, 1856.
Allowed,

JOHN PITMAN,
District Judge U. S. R. I. District.

Bond on Appeal.

CIRCUIT COURT OF THE UNITED STATES,
Rhode Island District.

EDWIN M. CHAFFEE, trustee to Horace H. Day.
vs.
NATHANIEL HAYWARD.
} At law.

Know all men by these presents, that Horace H. Day, of the city, county and State of New York as principal, and George O. Bourn, of Providence, in the district of Rhode Island and State of Rhode Island, as surety, are held and firmly bound unto Nathaniel Hayward of Colchester, in the State and district of Connecticut, defendant in the above entitled suit, in the sum of one thousand dollars, to be paid to the said Nathaniel Hayward, his executors and administrators; to which payment, well and truly to be made, the said Horace H. Day as principal, and George O. Bourn as surety, bind themselves, and each of their heirs, executors, and administrators.

The condition of this obligation is, that whereas Horace H. Day has prosecuted a writ of error to the Supreme Court of the United States in the above entitled cause, to reverse the judgment rendered therein, against Edwin M. Chaffee, trustee to him, in favor of the said Nathaniel Hayward, by the circuit court of the United States, for the first circuit within and for the district of Rhode Island, at its June term at Newport, in said district, A. D. 1856:

Now, therefore, the condition of this obligation is such, that if the said Horace H. Day, plaintiff in error, shall prosecute his said writ with effect, and answer all damages and costs, if he fails to make his plea good, then this obligation shall be null and void, otherwise, shall be and remain in full force.

In witness whereof, the said Horace H. Day, and George O. Bourn, have hereunto set their hands and seals this fifteenth day

of September, in the year of our Lord one thousand eight hundred and fifty-six.

HORACE H. DAY. [L. S.]
GEORGE O. BOURN. [L. S.]

Signed, sealed, and delivered in presence of—
J. WALDRON, as to H. H. Day.
CHAS. T. WARE, as to Geo. O. Bourn.

September 20th, 1856, allowed.

JOHN PITMAN,
Dist. Judge U. S. for R. I. District.

UNITED STATES OF AMERICA,
Rhode Island District, ss:

CLERK'S OFFICE CIRCUIT COURT,
Providence, November 6th, 1856.

I, Henry Pitman, clerk of the circuit court of the United States, for the first circuit within and for the Rhode Island district, do hereby certify that the foregoing contains a true copy of the within entitled case, with all the proceedings therein disposed of, at the June term of said court, A. D. 1856, duly examined and compared.

In testimony whereof, I have hereunto set my hand, and the [SEAL.] seal of said court, on the day and year above written.

HENRY PITMAN,
Clerk.

Writ of error.

UNITED STATES OF AMERICA, *ss:*

The President of the United States, to the honorable the judges of the circuit court of the United States for the district of Rhode Island, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court, before you, or some of you, between Edwin M. Chaffee, trustee to Horace H. Day, plaintiff, and Nathaniel Hayward, defendant, a manifest error hath happened to the great damage of the said Nathaniel Hayward, as by his complaint appears, we being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Wash-

ington on the first Monday of December next, in the said Supreme Court to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right and according to the laws and customs of the United States should be done.

Witness the Hon. Roger B. Taney, Chief Justice of the said Supreme Court, the 24th day of October, in the year of our Lord one thousand eight hundred and fifty-six.

HENRY PITMAN,
Clerk Cir. Court U. S., R. I. Dist.

Allowed by me, this 24th day of October, 1856.
Bond having been filed.

JOHN PITMAN,
District Judge U. S., Rhode Island District.

The United States of America, to Nathaniel Hayward, of Colchester, in the State of Connecticut, a citizen of said State of Connecticut, commorant of Providence, in the State of Rhode Island, greeting:

You are cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the first Monday of December next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the district of Rhode Island, wherein Edward M. Chaffee, trustee to Horace H. Day, is plaintiff in error, and you are defendant in error, to show cause, if any there be, why judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, this twenty-fifth day of October, in the year of our Lord one thousand eight hundred and fifty-six.

HENRY PITMAN, *Clerk.*

UNITED STATES OF AMERICA,
Rhode Island District, ss:

OCTOBER 30th, 1856.

I have this day cited and admonished the within named Nathaniel Hayward, by serving him with a true and attested [copy] of the within citation as commanded.

RUSSEL CLAPP,
Dep. U. S. Marshal.

Fees:	Service	2 00
	Copy	50
	400 miles travel	24 00
		$26 50